

United States Bankruptcy Court
Eastern District of North Carolina

In re:
CAH Acquisition Company 12, LLC
Debtor

Case No. 19-01697-JNC
Chapter 11

CERTIFICATE OF NOTICE

District/off: 0417-5
Date Rcvd: Jun 22, 2023

User: admin
Form ID: pdf014

Page 1 of 5
Total Noticed: 1

The following symbols are used throughout this certificate:

Symbol	Definition
+	Addresses marked '+' were corrected by inserting the ZIP, adding the last four digits to complete the zip +4, or replacing an incorrect ZIP. USPS regulations require that automation-compatible mail display the correct ZIP.

Notice by first class mail was sent to the following persons/entities by the Bankruptcy Noticing Center on Jun 24, 2023:

Recip ID	Recipient Name and Address
db	+ CAH Acquisition Company 12, LLC, PO Box 955734, Saint Louis, MO 63195-5734

TOTAL: 1

Notice by electronic transmission was sent to the following persons/entities by the Bankruptcy Noticing Center.
Electronic transmission includes sending notices via email (Email/text and Email/PDF), and electronic data interchange (EDI).

NONE

BYPASSED RECIPIENTS

The following addresses were not sent this bankruptcy notice due to an undeliverable address, *duplicate of an address listed above, *P duplicate of a preferred address, or ## out of date forwarding orders with USPS.

NONE

NOTICE CERTIFICATION

I, Gustava Winters, declare under the penalty of perjury that I have sent the attached document to the above listed entities in the manner shown, and prepared the Certificate of Notice and that it is true and correct to the best of my information and belief.

Meeting of Creditor Notices only (Official Form 309): Pursuant to Fed .R. Bank. P.2002(a)(1), a notice containing the complete Social Security Number (SSN) of the debtor(s) was furnished to all parties listed. This official court copy contains the redacted SSN as required by the bankruptcy rules and the Judiciary's privacy policies.

Date: Jun 24, 2023

Signature: /s/Gustava Winters

CM/ECF NOTICE OF ELECTRONIC FILING

The following persons/entities were sent notice through the court's CM/ECF electronic mail (Email) system on June 22, 2023 at the address(es) listed below:

Name	Email Address
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Ashley S. Rusher	on behalf of Defendant Rural Wellness Fairfax Inc. asr@blancolaw.com
Benjamin E.F.B. Waller	on behalf of Counter-Defendant CAH Acquisition Company 7 LLC d/b/a Prague Community Hospital bwaller@hendrenmalone.com, jgorman@hendrenmalone.com;ygadalla@hendrenmalone.com
Benjamin E.F.B. Waller	on behalf of Plaintiff Thomas W. Waldrep Jr. bwaller@hendrenmalone.com, jgorman@hendrenmalone.com;ygadalla@hendrenmalone.com
Benjamin E.F.B. Waller	on behalf of 3rd Party Defendant CAH Acquisition Company 6 LLC d/b/a I-70 Community Hospital bwaller@hendrenmalone.com, jgorman@hendrenmalone.com;ygadalla@hendrenmalone.com

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James Albert Barnes, IV

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James Albert Barnes, IV

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James Albert Barnes, IV

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James S. Livermon, III	on behalf of Defendant Michael Reece Charlie.livermon@wbd-us.com kim.cone@wbd-us.com
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Ryan Delaney Oxendine	on behalf of Creditor Dennis Loudermilk ryan@oxendinepricelaw.com
Ryan Delaney Oxendine	on behalf of Defendant Monroe Guest ryan@oxendinepricelaw.com
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Ryan Delaney Oxendine	on behalf of Defendant Dennis Loudermilk ryan@oxendinepricelaw.com
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Thomas W. Waldrep, Jr.	on behalf of Trustee Thomas W. Waldrep Jr. notice@waldrepwall.com, 2942809420@filings.docketbird.com;NC71@ecfbis.com
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Vicki L. Parrott	on behalf of Defendant Rural Community Hospitals of America LLC vlp@nbfirm.com, jla@nbfirm.com;sks@nbfirm.com
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William Walt Pettit	on behalf of 3rd Party Plaintiff Ryan Stumphauzer as Receiver for Complete Business Solutions Group Inc. walt.pettit@hutchenslawfirm.com, renee.copley@hutchenslawfirm.com

TOTAL: 95



SO ORDERED.

SIGNED this 22 day of June, 2023.



Joseph N. Callaway
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NORTH CAROLINA
GREENVILLE DIVISION

In re:)	
)	
CAH ACQUISITION COMPANY #1, LLC,	)	Case No. 19-00730-5-JNC
d/b/a WASHINGTON COUNTY HOSPITAL,	)	Chapter 11
)	
Debtor.)	
)	
In re:)	
)	
CAH ACQUISITION COMPANY #2, LLC,	)	Case No. 19-01230-5-JNC
d/b/a OSWEGO COMMUNITY HOSPITAL,	)	Chapter 11
)	
Debtor.)	
)	
In re:)	
)	
CAH ACQUISITION COMPANY #3, LLC,	)	Case No. 19-01180-5-JNC
d/b/a HORTON COMMUNITY HOSPITAL,	)	Chapter 11
)	
Debtor.)	
)	
In re:)	
)	
CAH ACQUISITION COMPANY 6, LLC,	)	Case No. 19-01300-5-JNC
d/b/a I-70 COMMUNITY HOSPITAL,	)	Chapter 7
)	
Debtor.)	

In re:)	
)	
CAH ACQUISITION COMPANY 7, LLC,	)	Case No. 19-01298-5-JNC
d/b/a PRAGUE COMMUNITY HOSPITAL,	)	Chapter 11
)	
Debtor.)	
In re:)	
)	
CAH ACQUISITION COMPANY 12, LLC,	)	Case No. 19-01697-5-JNC
d/b/a FAIRFAX COMMUNITY HOSPITAL,	)	Chapter 11
)	
Debtor.)	
In re:)	
)	
CAH ACQUISITION COMPANY 16, LLC,	)	Case No. 19-01227-5-JNC
d/b/a HASKELL COUNTY COMMUNITY	)	Chapter 11
HOSPITAL,)	
)	
Debtor.)	

**ORDER ON COMPENSATION FOR SPECIAL COUNSEL
MCDONALD HOPKINS, LLP, FOR LITIGATION FUNDING PROCUREMENT**

The matter before the Court is contained in the Motion for Order Authorizing and Approving (I) Litigation Funding Agreement with Omni Bridgeway (Fund 4) INVT. 3 L.P.; (II) Engagement Agreement with McDonald Hopkins, LLP, related to Litigation Funding; and (III) Engagement Agreements with Waldrep Wall Babcock and Bailey, PLLC, and McDonald Hopkins, LLP, Related to Litigation Funding, Effective from and after April 15, 2023 (Dkt. 1580; the “Motion”). The Motion was filed on May 23, 2023, by Thomas W. Waldrep, Jr., in his capacity as trustee of the estates of the above-captioned Debtors (“Trustee”). This order is limited to the request listed in component (II) above concerning compensation sought by special litigation counsel, McDonald Hopkins, LLP, for its work related to obtaining procurement of the Litigation Funding Agreement. The Bankruptcy Administrator filed a response to the Motion (Dkt. 1588; the “Response”) on June 13, 2023. The Motion and Response were heard by the court on June 20, 2023, in Greenville, North Carolina.

At the hearing, after considering the evidence presented and arguments of counsel, components (I) and (III) of the Motion were approved in part. A separate order regarding the same was entered on June 22, 2023 (Dkt. 1593). In support of the relief requested in component (II), the court also considered the Affidavit of Marc Carmel (Dkt. 1586; the “Affidavit”) filed June 5, 2023. In the Affidavit, Mr. Carmel details the work, time and effort expended in obtaining the Litigation Funding Agreement now approved by the court. The services were rendered between December 15, 2021, and May 23, 2023, as detailed and itemized in Exhibit A attached to the Affidavit. The compensation sought totals \$90,665.50 when calculated at the firm’s normal hourly rates for the professionals listed. McDonald Hopkins then seeks to double that compensation to \$181,331.00 based on risk, value, and success.

McDonald Hopkins argues that the nature, value, and risk of the matter should be considered as a broker fee request rather than attorney time. However, McDonald Hopkins never sought and was not employed as a broker for the Litigation Trusts and the Trustee in these cases. It therefore has no authority to seek broker compensation. Even if such employment had been sought, the court was unlikely to grant the same. McDonald Hopkins is employed as special litigation counsel for the Litigation Trusts and Trustee, and as such it and its attorneys owe a higher degree of loyalty and professionalism than any mere broker. In fact, from the record it appears McDonald Hopkins has provided that higher degree of loyalty and professionalism in this matter that the court expects. The work in obtaining litigation funding is well within attorney work scope.

For these reasons and others appearing of record, the court declined to treat the request as a broker fee, but instead, reviewed the matter as a legal fee request made under sections 330 and 331 of the Bankruptcy Code, plus a request for fee enhancement. The court has reviewed and finds that the underlying fee request, for the actual and detailed time set forth in the Affidavit, was reasonable and necessary work for the Litigation Trusts and Trustee performed within the scope of McDonald Hopkins' employment. The \$90,665.50 base fee sought is accordingly approved as stated at the hearing.

The court next considered whether an enhancement of the base amount would be warranted under factors enumerated by the Fifth Circuit in *Johnson v. Georgia Highway Express, Inc.*, 488 F.2d 714 (5th Cir. 1974), adopted in the Fourth Circuit as the test for fee enhancement in *Barber v. Kimbrell's, Inc.*, 577 F.2d 216, 226 (4th Cir.), *cert. denied*, 439 U.S. 934, 99 S.Ct. 329, 58 L.Ed.2d 330 (1978). After reviewing the "Johnson Factors" applicable here, the court declines to double the base fee, finding that the work does not merit such a large enhancement. However, the request for some enhancement is appropriate given the associated risks and success. The court in its discretion awards a success bonus in the amount of \$34,334.50 for a total approved fee of \$125,000.00 (including costs). The amount was announced in open court at the hearing and no party present objected.

THEREFORE, it is ORDERED and DECREED that compensation and fees for McDonald Hopkins, LLP, as special counsel for the Trustee, is ALLOWED and GRANTED in the total amount of \$125,000 for the work performed between December 15, 2021, through May 23, 2023, specified in Exhibit A attached to the Affidavit and sought in the Motion. Such amount may be paid by the Trustee from proceeds drawn from the approved Litigation Funding Agreement approved in the Litigation Funding Order when appropriate in his business judgment.

END OF DOCUMENT